IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1171 OF 2005
IN
SECOND APPEAL NO.121 OF 1988

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

CORAM : P.V.KAKADE, J.

DATE : 16TH SEPTEMBER, 2005

P.C.:

1. Heard the learned advocate for the applicant as well as respondent. This is an application to restore the Second Appeal No.121 of 1988, which was dismissed for want of presence of the Advocate for the appellant, which was dismissed by Order dated 18.3.2002.

2. The learned counsel for the respondent vehemently urged that it should not be restored as there is no sufficient ground for restroation of the appeal.

However, in my considered view, the parties should not suffer for mistake of the advocate when he remained absent and it is always in the interest of justice the matter to adjudicate on merits. Under the circumstances I hold that the application deserves to be allowed. Hence the application is made absolute in terms of prayer clauses (a) and (b) and stands disposed of.

3. It is submitted at the bar that the applicant Nos.1 and 3 are dead pending the proceeding. The learned counsel for the applicant undertakes to delete the names of applicant nos.1 and 3 and for that purpose take necessary steps.